LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
JAN 17 1970
JOHN F. DAVIS, CLERK

No. 1084

In the Supreme Court of the United States

OCTOBER TERM, 1969

ROBERT GABLER,

Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE ILLINOIS APPELLATE COURT, SECOND JUDICIAL DISTRICT

JOHN POWERS CROWLEY
105 West Adams Street
Chicago, Illinois 60603
Counsel for Petitioner

JOHN J. COGAN
53 West Jackson Blvd.
Chicago, Illinois 60602
Of Counsel

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

INDEX

	PAGE
Opinion Below	1
Jurisdiction	2
Questions Presented	2
Statutes Involved	2
Statement of the Case	4
Reasons for Granting the Writ	7
Conclusion	11
Appendix—	
Opinion	App. 1
Judgment	App. 7
Order Denying Leave to Appeal	App. 8-9

TABLE OF AUTHORITIES

Benton v. Maryland, 395 U.S. 784	7
Brown v. Louisiana, 383 U.S. 131	11
Green v. United States, 355 U.S. 184	10
People v. Purcell, 16 N.Y. Supp. 199	7
People v. Mendoza, 55 Cal. App. 2d 625	8
Shuttlesworth v. City of Birmingham, 382 U.S. 87	11
Territory v. Silva, 27 Hawaii 271	7
Thompson v. City of Louisville, 362 U.S. 199	11

In the Supreme Court of the United States

OCTOBER TERM, 1969

NO.

ROBERT GABLER,

Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE ILLINOIS APPELLATE COURT, SECOND JUDICIAL DISTRICT

Petitioner, Robert Gabler, prays that a writ of certiorari issue to review the judgment of the Illinois Appellate Court, Second Judicial District, affirming a judgment of conviction for rape, in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

OPINION BELOW

The opinion of the Illinois Appellate Court, Second Judicial District not yet officially reported. It is printed as an Appendix to this petition (App. 1-6.)

JURISDICTION

The opinion and judgment of the Illinois Appellate Court, Second Judicial District was entered on June 20, 1969 (App. 7). A timely petition for leave to appeal to the Illinois Supreme Court was denied on October 21, 1969. (App. 8-9) The jurisdiction of this Court invoked under 28 U.S.C. §1254 (1).

QUESTION PRESENTED

Whether the conviction on one (1) count of a two (2) count indictment and acquittal on the second count, which constitutes an element of the crime, charged in the first count, is a violation of the Fifth Amendment to the Constitution of the United States made applicable to the States by the Fourteenh Amendment.

STATUTES INVOLVED

Ill. Rev. Stat., Ch. 38, Sec. 111-4 (a). *Joinder of Offenses and Defendants*:

> "Two or more offenses may be charged in the same indictment, information or complaint in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are based on the same act or on 2 or more acts which are part of the same comprehensive transaction."

Ill. Rev. Stat., Ch. 38, Sec. 3-4 (b) and (b) (1) and (2). *Effect of Former Prosecution*:

> "b) A prosecution is barred if the defendant was formerly prosecuted for a different offense, or for the same offense based on different facts, if such prosecution:
>
> "(1) Resulted in either a conviction or an acquittal, and the subsequent prosecution if for an offense of which the defendant could have been convicted on

the former prosecution; or was for an offense with which the defendant should have been charged on the former prosecution, as provided in Section 3-3 of this Code (unless the court ordered a separate trial of such charge); or was for an offense which involves the same conduct, unless each prosecution requires proof of fact not required on the other prosecution, or the offense was not consummated when the former trial began; or

"(2) Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or . . ."

Ill. Rev. Stat., Ch. 38, Sec. 11-1 (a) (1). *Rape*:

"(a) A male person of the age of 14 years and upwards who has sexual intercourse with a female, not his wife, by force and against her will commits rape. Intercourse by force and against her will includes, but is not limited to, any intercourse which occurs in the following situations:

"(1) Where the female is unconscious; or . . ."

Ill. Rev. Stat., Ch. 38, Sec. 12-4 (a). *Aggravated Battery*:

"(a) A person who, in committing a battery, intentionally or knowingly causes great bodily harm . . . shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitenitiary from one to 10 years."

STATEMENT OF FACTS

The petitioner was indicted in a two count indictment (C. 1)* the first count charging him with rape, in that he had sexual intercourse with Nancy G. Stephenson, not his wife, by force and against her will. Count two of the same indictment charging him with the crime of aggravated battery on the same day, in that he did hit Nancy G. Stephenson about the face and body with his fists with great force and violence causing great bodily harm. After trial by jury he was convicted of rape and aquitted of aggravated battery.

The evidence considered in the light most favorable to the State was as follows:

Nancy Stephenson testified that she first met Gabler in a tavern called "May's Hideout" at approximately 1:45 P.M. on April 29, 1967. Gabler left the tavern shortly thereafter but returned at 4:00 P.M. and agreed to drive Mrs. Stephenson to the Manor Lounge in Northlake where she was seeking employment as a singer. After a few drinks, they left May's and stopped at a farm where Gabler showed her a horse that he owned. They also stopped at another tavern called "Mr. Dukes" to visit a waitress they knew where they had a few more drinks and played billiards. They left Mr. Dukes and arrived at the Manor Lounge at approximately 9:45 P.M. where Nancy was introduced by the bandleader and had one or two more drinks. They left the Manor so that Mrs. Stephenson could

* References to (C.1) are to the common law record certified by the court below to this Court.

return to May's for a party at 11:00 P.M. but on the way back Gabler drove to a secluded side road and stopped his car. She told him to start the car and go back to May's but he grabbed her and tried to push her to the seat. She was pushed down but hit the car handle, opened the door and fell to the ground. Gabler fell on top of her, ripped her slacks and slapped her a few times. She was screaming and biting Gabler in her effort to free herself and was able to get up and run about 20 feet from him. Gabler caught her, knocked her to the ground again, and struck her with his fists. Her head fell back and "hit something hard". The next thing she remembered was that Gabler was sitting in his car and she was still on the ground with her clothes "ripped". She got up, went to the car for her purse, and ran down the road where she stopped a police car that happened to be patrolling in the area. The police picked her but she was unable to recall clearly what happened thereafter except that the police drove down and arrested Gabler at the end of the road.

Gabler testified that he had an argument with his wife and went to May's at around 6:00 P.M. on April 29. He met Nancy Stephenson and after a few drinks left with her. He also testified as to the various stops made by them but added that throughout the evening there was passionate kissing, fondling and other lewd behavior. When he stopped his car, he continued to kiss her and was on top of her in the car when she "just went nuts" and began to scream, scratch, bite and hit him. He "cracked her back" and she ran from the car. He caught up with her, grabbed her from behind and he fell on top of her. He then noticed, for the first time, that her slacks were ripped. Gabler was asked if he then had intercourse with Nancy Stephenson to which he replied:

"She kept hitting and scratching, and I hit her back. I never used a closed fist. I hit her with just the back of my hand, or the other way, because she was hitting me and I just hit her back because she was hitting me, more or less.

And as far as having intercourse with her, I can't remember. I could have, but I'm not sure. I wouldn't say, because I don't know, the way I was feeling."

The police testified that they came upon Mrs. Stephenson at around 11:45 P.M. running down the road, screaming incoherently with her slacks almost completely torn from her body. She told the police officers she had just been beaten and raped by a man down the road and when they drove to the end of the road they found Gabler seated in his car with his pants open. On the way to the hospital, Mrs. Stephenson lost consciousness in the police car. Her face was bruised and bleeding and her eyes were swollen. A subsequent examination disclosed that her thighs were bruised and that she had recently engaged in an act of intercourse.

REASONS FOR GRANTING THE WRIT

I.

AN ACQUITTAL OR CONVICTION OF ASSAULT AND BATTERY IS A BAR TO PROSECUTION FOR RAPE, OR ASSAULT WITH INTENT TO COMMIT RAPE, BASED ON THE SAME TRANSACTION.

The indictment in this case charged the defendant with having committed two offenses, that of forcible rape and that of aggravated battery. The verdict of the jury acquitted the defendant of the offense of aggravated battery, and the only testimony introduced by the State to prove that force was used by the defendant was that pertaining to battery of which the defendant was acquitted. By virtue of these two verdicts being returned simultaneously by the jury for two offenses tried simultaneously by the State, the defendant has been put in double jeopardy, contrary to the Constitution of the State of Illinois, Article II, Section 10 of the Bill of Rights and the Fifth Amendment to the Constitution of the United States, cf. *Benton* v. *Mary-Maryland,* 395 U.S. 784.

In *People* v. *Purcell,* 16 N.Y. Supp. 199, an acquittal of the charge of assault and battery was held to be a bar to a subsequent prosecution for rape. The New York court rejected the argument that an acquittal of assault and battery in a court of inferior jurisdiction was not a bar to a subsequent indictment for rape.

In the case of *Territory* v. *Silva,* 27 Hawaii, 271, it was held that a conviction of assault and battery was a bar to a subsequent prosecution for rape arising out of the

same transaction. In that case, one arising out of two separate and chronologically distinct charges for assault and battery and for forcible rape, the court held,

> "The only question is whether the second prosecution is for the same offense. The commission of the crime of rape necessarily includes the element of force. It is indispensable to the completed offense that there should be not only an assault, but also a battery; or in other words an assault and battery. A conviction of the offense of rape necessarily includes a finding that he committed an assault and battery. Without the assault and battery there can be no rape. To permit a conviction of this defendant of the greater offense would be to permit him to be convicted a second time of the lesser offense of which he has already been convicted."

In a more recent case, *People* v. *Mendoza,* 55 Cal. App. 2d 625, 131 Pacific 2d 622, a similar set of circumstances was presented to the court. There the defendant had previously been convicted of the offense of assault and battery and was subsequently indicted for a charge of attempted rape. It was stipulated that the indictment was predicated upon the same state of facts which formed the gravamen of the assault and battery charge lodged against the defendant before a municipal court. The sole contention of the appellant in that appeal was that his plea of former conviction in jeopardy should have been sustained by the trial court. This contention was predicated upon the claim that the crime of battery is an offense necessarily included in the offense of attempted rape. In *Mendoza,* the court stated,

> "If for instance, the greater crime is first charged and in order to prove the same it is necessary and essential to completely prove the corpus delicti of a lesser crime, such lesser crime is necessarily included

in the greater, and is what is termed a necessarily included offense. In the instant case, at the time of filing the complaint and prosecuting the lesser offense, to-wit battery, the facts therein made out a complete corpus delicti for the crime of attempted rape. In other words, to establish the corpus delicti of the battery prosecution, it was necessary and essential to prove facts which in their entirety, as a matter of law, not only established the corpus delicti of the misdemeanor charge, but of the greater crime, attempted rape, as well. If instead of first charging appellant with the battery, he had been accused of attempted rape, it would have been necessary, under the facts of this case, in order to establish the corpus delicti of such attempted rape, to prove the corpus delicti of the lesser crime, to-wit, battery. The battery therefore is a necessarily included offense in the charge of attempted rape in the instant case, and a conviction of battery therefore bars a subsequent prosecution for the offense of attempted rape."

Further, in discussing the events and acts of the defendant proved up in the original battery prosecution, the court stated,

"In the case at bar, the acts committed by the defendant upon the prosecutrix may have constituted a simple assault or an assault and battery, or an attempt to commit rape, and the last named offense may be committed either with or without a battery; but the evidence on the part of the prosecution given upon the trial showed an aggravated battery which may or may not have been committed in an attempt to commit rape. When the defendant was before the municipal court, the prosecution was for the same acts on his part as charged in the indictment, but the complaint and judgment in the lower court omitted the alleged attempt charged in the amended indictment."

As a consequence the court found that the defendant had been placed in jeopardy, tried twice, and reversed the decision of the lower court and discharged the defendant.

II.

THE ACQUITTAL OF A DEFENDANT ON AN INDICTMENT FOR AN OFFENSE WHICH INCLUDES LESSER OFFENSES, OPERATES ALSO AS AN ACQUITTAL, AND A BAR TO ANY SUBSEQUENT PROSECUTION OF ALL INCLUDED LESSER OFFENSES OF WHICH HE MIGHT HAVE BEEN CONVICTED ON THE INDICTMENT CHARGING THE HIGHER OFFENSE.

It is a general rule that the acquittal of a defendant on an indictment for an offense which includes lesser offenses, operates as an acquittal of any subsequent prosecution of all lesser included offenses. *Green* v. *United States,* 355 U.S. 184; *Benton* v. *Maryland,* 395 U.S. 784. In the case at bar, the petitioner was acquitted by the jury of the charge of aggravated battery. The language of the indictment in count II charging him with the offense of aggravated battery includes the words "great force." The testimony and acts of which the petitioner was accused, and constituting the offense of aggravated battery, were the same as those acts which the State introduced to prove the element of force in the offense of forcible rape charged in count I of the indictment. The jury's verdict finding the petitioner not guilty of aggravated battery necessarily included an acquittal of the petitioner for the lesser includible offense of battery.

Therefore, the jury concluded that the physical acts of violence committed on the person of the prosecutrix did not constitute the force which would have constituted a

necessary element of the crime of rape. In other words, since no other force, threat of force or act of force in perpetrating or committing the act of intercourse was proved by the State, it would appear that the acquittal of the petitioner on the aggravated battery charge is inconsistent with the finding of guilty returned by the jury on the rape charge, and this inconsistency arises to Constitutional proportions.

When the jury found the petitioner not guilty of the crime of aggravated battery they therefore found that the State failed to prove an essential element of the crime of rape. Therefore, the conviction rests on insufficient evidence and violates due process. *Thompson* v. *City of Louisville,* 362 U.S. 199; *Shuttlesworth* v. *City of Birmingham,* 382 U.S. 87 and *Brown* v. *Louisiana,* 383 U.S. 131.

CONCLUSION

For the foregoing reasons, petitioner respectfully submits that the petition for a writ of certiorari should be granted.

Respectfully submitted,

JOHN POWERS CROWLEY
105 West Adams Street
Chicago, Illinois 60603
Counsel for Petitioner

JOHN J. COGAN
53 West Jackson Blvd.
Chicago, Illinois
Of Counsel.

APPENDIX

APPENDIX A

OPINION OF THE APPELLATE COURT.

IN THE
APPELLATE COURT OF ILLINOIS
SECOND JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

No. 68 116 v.

ROBERT GABLER,

Defendant-Appellant.

Appeal from the Circuit Court of the Eighteenth Judicial Circuit, DuPage County.

Mr. Justice Abrahamson Delivered The Opinion Of The Court.

The defendant was tried on a two count indictment for the crimes of rape and aggravated battery. Count I of the indictment charged Gabler with the offense of rape in that he had sexual intercourse with ". . . Nancy G. Stephenson, a female person, not his wife, by force and against her will . . ." Count II charged him with the offense of aggravated battery in that he "he did strike and hit Nancy G. Stephenson about the face and body with his fists with great force and violence causing great bodily harm. . . " The jury returned verdicts that found Gabler guilty of the crime of rape and not guilty of the crime

of aggravated battery "in the manner and form as charged in the indictment." Judgment was entered on those verdicts and this appeal followed.

Nancy Stephenson testified that she first met Gabler in a tavern called "May's Hideout" at approximately 1:45 P.M. on April 29, 1967. Gabler left the tavern shortly thereafter but returned at 4:00 P.M. and agreed to drive Mrs. Stephenson to the Manor Lounge in Northlake where she was seeking employment as a singer. After a few drinks, they left May's and stopped at a farm where Gabler showed her a horse that he owned. They also stopped at another tavern called "Mr. Dukes" to visit a waitress they knew where they had a few more drinks and played billiards. They left Mr. Dukes and arrived at the Manor Lounge at approximately 9:45 P.M. where Nancy was introduced by the bandleader and had one or two more drinks. They left the Manor so that Mrs. Stephenson could return to May's for a party at 11:00 P.M. but on the way back Gabler drove to a secluded side road and stopped his car. She told him to start the car and go back to May's but he grabbed her and tried to push her to the seat. She was pushed down but hit the car handle, opened the door and fell to the ground. Gabler fell on top of her, ripped her slacks and slapped her a few times. She was screaming and biting Gabler in her effort to free herself and was able to get up and run about 20 feet from him. Gabler caught her, knocked her to the ground again, and struck her with his fists. Her head fell back and "hit something hard". The next thing she remembered was that Gabler was sitting in his car and she was still on the ground with her clothes "ripped". She got up, went to the car for her purse, and ran down the road where she stopped a police car that happened to be patrolling in the area. The

police picked her up but she was unable to recall clearly what happened thereafter except that the police drove down and arrested Gabler at the end of the road.

Gabler testified that he had an argument with his wife and went to May's at around 6:00 P.M. on April 29. He met Nancy Stephenson and after a few drinks left with her. He also testified as to the various stops made by them but added that throughout the evening there was passionate kissing, fondling and other lewd behavior. When he stopped his car, he continued to kiss her and was on top of her in the car when she "just went nuts" and began to scream, scratch, bite and hit him. He "cracked her back" and she ran from the car. He caught up with her, grabbed her from behind and he fell on top of her. He then noticed, for the first time, that her slacks were ripped. Gabler was asked if he then had intercourse with Nancy Stephenson to which he replied:

> "She kept hitting and scratching, and I hit her back. I never used a closed fist. I hit her with just the back of my hand, or the other way, because she was hitting me and I just hit her back because she was hitting me, more or less.
>
> And as far as having intercourse with her, I can't remember. I could have, but I'm not sure. I wouldn't say, because I don't know, the way I was feeling."

The police testified that they came upon Mrs. Stephenson at around 11:45 P.M. running down the road, screaming incoherently with her slacks almost completely torn from her body. She told the police officers she had just been beaten and raped by a man down the road and when they drove to the end of the road they found Gabler seated in his car with his pants open. On the way to the hospital,

Mrs. Stephenson lost consciousness in the police car. Her face was bruised and bleeding and her eyes were swollen. A subsequent medical examination disclosed that her thighs were bruised and that she had recently engaged in an act of intercourse.

On appeal, the defendant contends that it was incumbent on the State to prove by competent evidence that he had committed a battery upon the person of Nancy Stephenson in order to convict him of rape. He further urges that when the jury found him not guilty of aggravated battery, they, by operation of law, also found him not guilty of battery as a lesser included offense, and that the State therefore was necessarily precluded from proving a necessary element to sustain the conviction of rape.

The crime of rape is defined in the Criminal Code (Ill. Rev. Stat. 1967, ch. 38, sec. 11-1 (a) and (b) as follows:

"11-1. Rape.

(a) A male person of the age of 14 years and upwards who has sexual intercourse with a female, not his wife, by force and against her will, commits rape. Intercourse by force and against her will includes, but is not limited to, any intercourse which occurs in the following situations:

(1) Where the female is unconscious; or

(2) Where the female is so mentally deranged or deficient that she cannot give effective consent to intercourse.

(b) Sexual intercourse occurs when there is any penetration of the female sex organ by the male sex organ."

The defendant cites a number of cases from other jurisdictions that appear to hold that a battery is an indispen-

sable element to the crime of rape. People v. Mendoza, 131 Pacific 2d 622; Territory v. Silva, 27 Hawaii 271. There are no Illinois cases on this precise point but we have recently held that a "Battery is neither the same nor is it an includable offense in the crime of attempted rape." People v. Thompson, 87 Ill. App. 2d 426, 430. We conclude that the statutory definition of rape does not require as one of the elements of the crime a battery.

Count II of the indictment charged Gabler with aggravated battery in that he struck Nancy Stephenson "about the face and body" with his fists, an offense entirely separate from the charge of rape. The defendant argued to the jury, correctly, that in order to prove aggravated battery it was necessary to establish that the girl suffered "great bodily harm." It was not necessary to show either that Gabler struck the girl or used any particular force if she was unconscious in order to prove the rape. Therefore, the verdict that Gabler was not guilty of aggravated battery "as charged in the indictment" was not inconsistent with the verdict that he was guilty of rape.

The next point urged by the defendant is that he was placed in double jeopardy by the method of prosecution. This argument also appears to be based on the contention that the same proof was necessary to convict Gabler of either charge. We repeat that these were separate offenses based on separate acts and did not necessarily have to tried together. In any event, they were prosecuted simultaneously and the concept of double jeopardy has application only in cases of subsequent prosecutions.

The defendant also argues that the evidence was insufficient to show that he had intercourse with the prosecutrix by force and against her will. Although he never admits that intercourse did in fact occur, he contends that if it

did occur it was with the consent of Mrs. Stephenson. The testimony of the defendant himself overwhelmingly refutes any possibility of consent. He did not testify that she had agreed to intercourse but, on the contrary, that ". . . She never said okay to anything." His description of her behavior indicates the absolute antithesis of consent. She bit, scratched, kicked and hit him and tried, futilely, to run away. Her slacks were torn off, she screamed "Help" and only succumbed after she lost consciousness. If this conduct is indicative of consent, we cannot conceive of what proof is necessary to show resistance.

For these same reasons, the trial court properly denied any testimony relative to the prosecutrix' reputation for chastity. The reputation for chastity in a rape case is only material where the defense is consent. The People v. Cox, 383 Ill. 617, 622. Althought counsel for the defendant in his opening argument and before us has raised the question of consent, it was not raised as a defense during the trial. At the time of his arrest, the defendant denied intercourse had occurred and at the trial he could not remember. Under the circumstances, the prosecutrix' reputation for chastity was not material.

For the reasons given, the verdict and judgment of the trial court was proper and should be affirmed.

JUDGMENT AFFIRMED.

MORAN, P.J. and DAVIS, J. concur.

Be it remembered, That, to wit: On the 20th day of June, A.D. 1969 certain proceedings were had, and orders made and entered of record by said Court, among which is the following, viz.:

People of the State of Illinois,

Appellee Appeal from the Circuit

68-116 vs. Court of DuPage county,

Robert Gabler,

Appellant

On this day came against the said parties, and the Court, having diligently examined and inspected, as well the record and proceedings aforesaid, as the matters and things therein assigned for error, and being now sufficiently advised of and concerning the premises, finds that neither in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, is there anything erroneous, vicious or defective, and that in said record there is no error.

Therefore it is considered by the Court that the judgment aforesaid be affirmed in all things, and stand in full force and effect, notwithstanding the said matters and things therein assigned for error.

APPENDIX B

UNITED STATES OF AMERICA

State of Illinois
Supreme Court—ss.

At a Term of the Supreme Court, *begun and held in Springfield, on Monday, the eighth day of September in the year of our Lord, one thousand nine hundred and sixty-nine, within and for the State of Illinois.*

PRESENT: ROBERT C. UNDERWOOD, CHIEF JUSTICE
JUSTICE WALTER V. SCHAEFER
JUSTICE DANIEL P. WARD
JUSTICE CASWELL J. CREBS

JUSTICE THOMAS E. KLUCZYNSKI
JUSTICE JOHN T. CULBERTSON, JR.
JUSTICE MARVIN F. BURT
WILLIAM J. SCOTT, ATTORNEY GENERAL
ROBERT G. MILEY, MARSHAL
ATTEST: JUSTIN TAFT, CLERK

Be It Remembered, *that, to-wit: on the 21st day of October* 1969, *the same being one of the days in vacation after the term of Court aforesaid, the following proceedings were, by said court, had and entered of record, to-wit:*

PEOPLE STATE OF ILLINOIS,

Respondent

No. 42501 vs.

ROBERT GABLER,

Petitioner

Petition for Leave to Appeal from Appellate Court
Second District 68 - 116

And now on this day the Court having duly considered the Petition for Leave to Appeal herein and being now fully advised of and concerning the premises, doth overrule the prayer of the petition and denies Leave to Appeal herein.

I, JUSTIN TAFT, *Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of the final order of the said Supreme Court in the above entitled cause of record in my office.*

In Witness Whereof, I have hereunto subscribed my name and affixed the Seal of said court this day , 19

Clerk,
Supreme Court of the State of Illinois.